

satisfactory methods or techniques for performing chemical analyses, and the Department of ~~Environment, Health, and Natural Resources~~ Health and Human Services ~~is authorized to may~~ ascertain the qualifications and competence of individuals to conduct particular chemical analyses. The Department may issue permits to conduct chemical analyses to individuals it finds qualified subject to periodic renewal, termination, and revocation of the permit in the Department's discretion.

(b1) When Officer May Perform Chemical Analysis. -- Except as provided in this subsection, a chemical analysis is not valid in any case in which it is performed by an arresting officer or by a charging officer under the terms of G.S. 20-16.2. A chemical analysis of the breath may be performed by an arresting officer or by a charging officer when both of the following apply:

- (1) The officer possesses a current permit issued by the Department of ~~Environment, Health, and Natural Resources~~ Health and Human Services for the type of chemical analysis.
- (2) The officer performs the chemical analysis by using an automated instrument that prints the results of the analysis.

(b2) Breath Analysis Results Inadmissible if Preventive Maintenance Not Performed. -- Notwithstanding the provisions of subsection (b), the results of a chemical analysis of a person's breath performed in accordance with this section are not admissible in evidence if:

- (1) The defendant objects to the introduction into evidence of the results of the chemical analysis of his the defendant's breath; and
- (2) The defendant demonstrates that, with respect to the instrument used to ~~analyse~~ analyze his the defendant's breath, preventive maintenance procedures required by the regulations of the Commission for Health Services had not been performed within the time limits prescribed by those regulations.

(b3) Sequential Breath Tests Required. -- By January 1, 1985, the regulations of the Commission for Health Services governing the administration of chemical analyses of the breath ~~must~~ shall require the testing of at least duplicate sequential breath samples. Those regulations must provide:

- (1) A specification as to the minimum observation period before collection of the first breath sample and the time requirements as to collection of second and subsequent samples.
- (2) That the test results may only be used to prove a person's particular alcohol concentration if:
  - a. The pair of readings employed are from consecutively administered tests; and
  - b. The readings do not differ from each other by an alcohol concentration greater than 0.02.
- (3) That when a pair of analyses meets the requirements of subdivision (2), only the lower of the two readings may be used by the State as proof of a person's alcohol concentration in any court or administrative proceeding.